

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Dan Kikinis

Serial No.: 09/782,896

Filed: February 13, 2001

For: METHOD AND SYSTEM FOR 3-D
ENHANCED ADVERTISING FOR TV
BROADCAST OF 2-D VIDEO

Atty. Docket No.: 007287.00045

Group Art Unit: 2424

Examiner: Usha Raman

Confirmation No.: 3324

APPEAL BRIEF

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Sir:

This is an Appeal Brief filed in support of Appellants' June 4, 2009, Notice of Appeal and Pre-Appeal Brief Request for Review. Appeal is taken from the Final Office Action mailed February 4, 2009 (hereafter, "Final Office Action"), and the Notice of Panel Decision from Pre-Appeal Brief Review mailed July 20, 2009.

Please charge any fees to Deposit Account No. 19-0733. In addition, any extensions of time necessary for acceptance or entry of this paper are hereby requested.

REAL PARTY IN INTEREST

37 C.F.R. § 41.37(c)(1)(i)

The owner of this application, and the real party in interest, is JLB Ventures, LLC.

RELATED APPEALS AND INTERFERENCES

37 C.F.R. § 41.37(c)(1)(ii)

There are no related appeals or interferences.

STATUS OF CLAIMS

37 C.F.R. § 41.37(c)(1)(iii)

Claims 1, 2, 4-8, 10-14 and 16-22 stand rejected and are presently appealed.

Claims 3, 9 and 15 have been canceled.

STATUS OF AMENDMENTS

37 C.F.R. § 41.37(c)(1)(iv)

No amendments have been made subsequent to final rejection.

SUMMARY OF CLAIMED SUBJECT MATTER

37 C.F.R. § 41.37(c)(1)(v)

In making reference herein to various embodiments in the specification text and/or drawings to explain the claimed invention, Appellant does not intend to limit the claims to those embodiments; all references to the specification and drawings are illustrative unless otherwise explicitly stated. Appellant refers to the originally filed Specification dated February 13, 2001 ("Specification"), for the cited support.

Independent claim 1 is directed to a method for providing enhanced advertising of a 2-D broadcast. P. 2, ll. 7-9; FIG. 5. The method includes receiving the 2-D video broadcast including a first advertisement having a 2-D image. P. 4, ll. 3-5; FIG. 5. The method further includes identifying the 2-D image within the first advertisement. P. 4, line 5; FIG. 5. The 2-D image is identified based on one or more characteristics of the 2-D image and exclusively at a viewer's equipment. P. 13, ll. 8-10; P. 13, ll. 3-4; FIG. 5. Additionally, the method includes looking-up a matching 3-D object in an image library using a look-up table, wherein the library comprises one or more 3-D objects. P. 13, ll. 8-10; FIG. 5. Furthermore, the method includes

using the matching 3-D object to generate an enhanced first advertisement, wherein the enhanced first advertisement has a 3-D highlighted rendering of the image produced by pushing the 3-D object into the 2-D image, and further wherein said 3-D highlighted rendering of the image comprises a portion of the original 2-D image and said 3-D object. P. 12, ll. 12-20; FIG. 5.

Independent claim 7 recites a system for providing enhanced advertising of a 2-D video broadcast. P. 10, line 8 – P. 11, line 14; FIG. 2. The system includes means for receiving the 2-D video broadcast including a first advertisement having a 2-D image. P. 11, ll. 11-14; P. 4, ll. 3-5; FIG. 2; FIG. 5. The system also includes means for identifying the 2-D image within the first advertisement, wherein said 2-D image is identified based on one or more characteristics of the 2-D image and exclusively at a viewer's equipment. P. 13, ll. 8-10; P. 13, ll. 3-4; FIG. 2; FIG. 5. The system further includes means for looking-up a matching 3-D object in an image library, wherein the library comprises one or more 3-D objects. P. 13, ll. 8-10; FIG. 2; FIG. 5. Still further, the system includes means for using the matching 3-D object to generate an enhanced first advertisement, wherein the enhanced first advertisement has a 3-D highlighted rendering of the image produced by pushing the 3-D object into the original 2D image, and further wherein said 3-D highlighted rendering of the image comprises a portion of the original 2-D image and said 3-D object. P. 12, ll. 12-20; FIG. 2; FIG. 5.

Independent claim 13 recites a computer-readable medium having stored thereon a plurality of instructions for providing enhanced advertising of a 2-D broadcast, said plurality of instructions when executed by an apparatus, cause said apparatus to various functions. P. 11, ll. 3-5; FIG. 2. The functions include receiving the 2-D video broadcast including a first advertisement having a 2-D image and identifying the 2-D image within the first advertisement, wherein the 2-D image is identified solely based on one or more characteristics of the 2-D image and exclusively at a viewer's equipment. P. 4, ll. 3-5; FIG. 5. The functions further include looking-up a matching 3-D object in an image library using a look-up table, wherein the library comprises one or more 3-D objects. P. 13, ll. 8-10; FIG. 5. Still further, the functions include using the matching 3-D object to generate an enhanced first advertisement, wherein the enhanced first advertisement has a 3-D highlighted rendering of the image produced by pushing the 3-D object into the original 2-D image. P. 12, ll. 12-20; FIG. 5.

Independent claim 19 recites a set-top box for generating 3-D enhanced advertising from 2-D video broadcasts. P. 10, ll. 8-12; FIG. 2. The set-top box includes a processor and a storage device configured to store a library of 3-D objects. P. 10, ll. 12-13; p. 11, ll. 3-5; FIG. 2. The processor is configured to receive the 2-D broadcast including a first advertisement having a 2-D image. P. 4, ll. 3-5; FIG. 5. The processor is further configured to identify the 2-D image within the advertisement, wherein said 2-D image is identified based on its characteristics and exclusively at a viewer's equipment. P. 4, line 5; FIG. 5. The processor is also configured to look-up a 3-D object matching the 2-D image in the library. P. 13, ll. 8-10; FIG. 5. Furthermore, the processor is configured to use the matching 3-D object to generate an enhanced first advertisement, wherein the enhanced first advertisement has a 3-D highlighted rendering of the image produced by pushing the 3-D object into the original 2-D image, and further wherein said 3-D highlighted rendering of the image comprises a portion of the original 2-D image and said 3-D object. P. 12, ll. 12-20; FIG. 5.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

37 C.F.R. § 41.37(c)(1)(vi)

Claims 1, 2, 4-8, 10-14 and 16-22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ficco (U.S. Patent App. Pub. No. 2005/0166224, “Ficco”) in view of Blanz *et al.* (U.S. Patent No. 6,556,196, “Blanz”).

ARGUMENT

37 C.F.R. § 41.37(c)(1)(vii)

I. Ficco and Blanz do not teach or suggest looking-up a matching 3-D object in an image library using a look-up table, wherein the library comprises one or more 3-D objects.

Claims 1, 7, 13 and 19 all relate to looking-up a matching 3-D object in an image library using a look-up table, wherein the library comprises one or more 3-D objects. The Final Office Action asserts at p. 2 that advertisements may be processed in Ficco and that such processing includes cosmetic changes, changing coloring, and adding texture to certain objects in the advertisement. Even assuming, without conceding, that such an assertion is valid, the Final Office Action fails to address where or how Ficco teaches or suggests the looking-up of a 3-D object

matching a 2-D image in an image library using a look-up table, wherein the library comprises one or more 3-D objects and using the matching 3-D object to generate an enhanced first advertisement, as recited in claims 1, 7, 13 and 19. Adding texture to certain objects in the advertisement does not constitute the looking-up of a 3-D object and using the 3-D object to generate an enhanced first advertisement because a texture does not correspond to a 3-D object. Indeed, nowhere does Ficco support the assertion that the texture is a 3-D object. Significantly, the process described in Ficco is the opposite of what is recited in claims 1, 7, 13 and 19. Even if the Final Office Action were to argue that in processing advertisements, Ficco looks up a texture and applies the texture to a 3-D object, the texture is at best a 2-D image, not a 3-D object. Thus, Ficco clearly does not teach or suggest looking up the *3-D object* based on a received 2-D image as recited in claims 1, 7, 13 and 19. Accordingly, claims 1, 7, 13 and 19 are allowable for at least these reasons.

II. *Ficco and Blanz do not teach or suggest an image library comprising one or more 3-D objects.*

The Final Office Action further asserts that Ficco describes an advertisement library that includes one or more enhancement objects such as wire frame models or texture maps. p. 3. The Final Office Action alleges that such a teaching corresponds to the image library comprising one or more 3-D objects recited in claims 1, 7, 13 and 19. Appellant disagrees as nowhere does Ficco support such an assertion. At most, Ficco states that an advertisement segment may be selected from one or more advertising segments stored in ad segment memories 22-28 with no mention of 3-D objects stored therein. Even assuming, *arguendo*, that the texture maps or wire frame models are 3-D objects, Ficco fails to teach or suggest that the maps or wire frame models are stored in memories 22-28.

Significantly, Ficco describes use of the same or original alleged 3-D object (i.e., the wireframe), thereby eliminating a need, reason or motivation to look-up a matching wireframe model when processing a broadcast advertisement. *See, e.g.*, p. 6, para. [0090] (stating that “Johnny Unitas could be texture mapped onto a wireframe model *of the original quarterback* in a broadcast football game.”). (Emphasis Added). That is, since Ficco starts with an original wireframe, looking-up a 3-D object corresponding to the wireframe would be nonsensical. Thus,

Ficco clearly does not teach or suggest looking-up a matching 3-D object, much less in a library thereof. Accordingly, claims 1, 7, 13 and 19 are allowable for these additional reasons.

III. *Ficco and Blanz do not teach or suggest generating an enhanced first advertisement, wherein the enhanced first advertisement has a 3-D highlighted rendering of the image produced by pushing the 3-D object into the 2-D image.*

The Final Office Action concedes at p. 4 that Ficco does not explicitly state that enhancement objects comprise 3-D objects. Instead, the Final Office Action relies on Blanz's alleged description of producing a 3D representation of an image by pushing a morphable object to the 2D image. Appellant respectfully submits that this is a mischaracterization of Blanz. Specifically, Blanz does not teach or suggest *pushing* a 3-D object into a 2-D image as recited in claim 1. Instead, Blanz merely describes morphing (e.g., changing 3-D parameters) of a 3-D model based on a 2-D image. *See, e.g.*, Col. 2, ll. 30-48; *see also* FIG. 4 and corresponding description. The mere modification of existing aspects of a 3-D object is inapposite to the pushing of a 3-D object into a separate 2-D image. Claims 1, 7, 13 and 19 are thus allowable for this additional reason.

IV. *Dependent claims 2, 4-6, 8, 10-12, 14, 16-18 and 20-22 are allowable.*

Claims 2 and 4-6 are dependent on claim 1, claims 8 and 10-12 are dependent on claim 7, claims 14 and 16-18 are dependent on claim 13 and claims 20-22 are dependent on claim 19. Accordingly, claims 2, 4-6, 8, 10-12, 14, 16-18 and 20-22 are allowable for at least the same reasons as their respective base claims.

CONCLUSION

For all of the foregoing reasons, Appellant respectfully submits that the final rejection of claims 1, 2, 4-8, 10-14 and 16-22 is improper and should be reversed.

Respectfully submitted,
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CLAIMS APPENDIX
37 C.F.R. § 41.37(c)(1)(viii)

Claims involved in the appeal:

Claim 1: A method for providing enhanced advertising of a 2-D broadcast, comprising:
 receiving the 2-D video broadcast including a first advertisement having a 2-D image;
 identifying the 2-D image within the first advertisement, wherein the 2-D image is
identified based on one or more characteristics of the 2-D image and exclusively at a viewer's
equipment;

 looking-up a matching 3-D object in an image library using a look-up table, wherein the
library comprises one or more 3-D objects; and

 using the matching 3-D object to generate an enhanced first advertisement, wherein the
enhanced first advertisement has a 3-D highlighted rendering of the image produced by pushing
the 3-D object into the 2-D image, and further wherein said 3-D highlighted rendering of the
image comprises a portion of the original 2-D image and said 3-D object.

Claim 2: The method according to claim 1, wherein the first advertisement includes a
plurality of 2-D images.

Claim 4: The method according to claim 1, further comprising displaying the enhanced first
advertisement on a display device, the display device comprising at least one of: a television, a
computer monitor, and liquid crystal display.

Claim 5: The method of claim 4, further comprising overlaying the 2-D image on the
matching 3-D object.

Claim 6: The method of claim 5, wherein overlaying the image further comprises:
 overlaying specular lighting; and
 overlaying shading.

Claim 7: A system for providing enhanced advertising of a 2-D video broadcast, comprising:

means for receiving the 2-D video broadcast including a first advertisement having a 2-D image;

means for identifying the 2-D image within the first advertisement, wherein said 2-D image is identified based on one or more characteristics of the 2-D image and exclusively at a viewer's equipment;

means for looking-up a matching 3-D object in an image library, wherein the library comprises one or more 3-D objects; and

means for using the matching 3-D object to generate an enhanced first advertisement, wherein the enhanced first advertisement has a 3-D highlighted rendering of the image produced by pushing the 3-D object into the original 2D image, and further wherein said 3-D highlighted rendering of the image comprises a portion of the original 2-D image and said 3-D object.

Claim 8: The system according to claim 7, wherein the first advertisement includes a plurality of 2-D images.

Claim 10: The system according to claim 7, further comprising means for displaying the enhanced first advertisement on a display device, the display device comprising at least one of: a television, a computer monitor, and a liquid crystal display.

Claim 11: The system according to claim 10, further comprising means for overlaying the 2-D image on the matching 3-D object.

Claim 12: The system according to claim 11, wherein means for overlaying the image further comprises:

means for overlaying specular lighting; and

means for overlaying shading.

Claim 13: A computer-readable medium having stored thereon a plurality of instructions for providing enhanced advertising of a 2-D broadcast, said plurality of instructions when executed by an apparatus, cause said apparatus to perform:

- receiving the 2-D video broadcast including a first advertisement having a 2-D image;
- identifying the 2-D image within the first advertisement, wherein the 2-D image is identified solely based on one or more characteristics of the 2-D image and exclusively at a viewer's equipment;

- looking-up a matching 3-D object in an image library using a look-up table, wherein the library comprises one or more 3-D objects; and

- using the matching 3-D object to generate an enhanced first advertisement, wherein the enhanced first advertisement has a 3-D highlighted rendering of the image produced by pushing the 3-D object into the original 2-D image.

Claim 14: The computer-readable medium of claim 13, wherein the first advertisement includes a plurality of 2-D images.

Claim 16: The computer-readable medium of claim 13 having stored thereon additional instructions, said additional instructions when executed by the apparatus, cause said apparatus to further perform displaying the enhanced first advertisement on a display device, the display device comprising at least one of: a television, a computer monitor, and a liquid crystal display.

Claim 17: The computer-readable medium of claim 16 having stored thereon additional instructions, said additional instructions when executed by the apparatus, cause said apparatus to further perform overlaying the 2-D image on the matching 3-D object.

Claim 18: The computer-readable medium according to claim 17, having stored thereon additional instructions, said additional instructions when executed by the apparatus, cause said apparatus to further perform overlaying the image by:

- overlaying specular lighting; and
- overlaying shading.

Claim 19: A set-top box for generating 3-D enhanced advertising from 2-D video broadcasts, comprising:

a processor; and

a storage device, wherein the storage device is configured to store a library of 3-D objects;

wherein the processor is configured to:

receive the 2-D broadcast including a first advertisement having a 2-D image;

identify the 2-D image within the advertisement, wherein said 2-D image is identified based on its characteristics and exclusively at a viewer's equipment;

look-up a 3-D object matching the 2-D image in the library; and

use the matching 3-D object to generate an enhanced first advertisement, wherein the enhanced first advertisement has a 3-D highlighted rendering of the image produced by pushing the 3-D object into the original 2-D image, and further wherein said 3-D highlighted rendering of the image comprises a portion of the original 2-D image and said 3-D object.

Claim 20: The set top box of claim 19, wherein the first advertisement includes a plurality of 2-D images.

Claim 21: The set top box of claim 20 wherein the processor uses a look-up table to identify the matching 3-D object.

Claim 22: The set top box of claim 21, further comprising a display device that displays the enhanced first advertisement, wherein the display device comprises at least one of: a television, a computer monitor, and a liquid crystal display.

EVIDENCE APPENDIX
37 C.F.R. § 41.37(c)(1)(ix)

NONE.

RELATED PROCEEDINGS APPENDIX

37 C.F.R. § 41.37(c)(1)(x)

NONE.